

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 39 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

STANDARD CHARTERED BANK

Versus

CORE HEALTHCARE LIMITED

Appearance:

MR MIHIR J THAKORE for MR ASHISH S JOSHI for Petitioner
MR PC KAVINA for Respondent No. 1, 3
DR SONIA HURRA for Respondent No. 6, 10, 11, 14, 15
None present for other Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 31/01/2000

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. The order of the learned trial court under which it declined to hear and decide the application filed by

the petitioner for interim relief below Ex. 5 till all the defendants in the suit are served gave rise a cause to the plaintiff- petitioner to file this revision application in this court.

3. This court on 25th January, 2000 gave notice to all other respondents and direct service was permitted and it is not in dispute that all the respondents have been served. In the trial court, notices were sent to defendants by registered post A.D.. Now it is not in dispute that A.D. receipts of these defendants except No. 4 have been received in the court. So otherwise also, now except defendant No.4 all have been served in the trial court. So far as the respondent No.4 is concerned, notice of this revision application has been given to it but despite of service of the same nobody is present on its behalf. That shows how that party has interest in the matter. Merely because other defendants are not cooperating, the hearing of the application filed by the petitioner for grant of interim relief cannot be deferred. Other defendants have been joined as what the counsel for the petitioner is contending that they may have pari passu right in the assets of the company against whom the suit has been filed for recovery of the loan advanced to it. Be that as it may. All defendants have already been served with the summons of the suit except defendant No.4. There cannot be any difficulty with the trial court to decide the application filed by the petitioner for grant of interim relief. If other financial institutions are not interested to recover their amount from the defaulting company, it is different matter but the financial institution which is taking all actions for recovery of the amount of loan advanced to the defaulting company cannot be put to suffer only because of their inaction or omission or for some other reasons. It is different matter they may support or may not support the application of the petitioner but merely on the ground that they have not been served otherwise also the deferment of hearing of Ex. 5 would not have been justified. In this case the petitioner has taken all the precautions and care to send the notice to those persons. However, now in view of the subsequent development which has been taken place and the fact that despite of service of notice the respondent No.4 is not appearing before this court, the order of the learned trial court has no substance and has become infructuous.

4. In the result, this revision application is disposed of in terms that the learned trial court shall decide the application filed by the petitioner below Ex. 5 after hearing all the parties who put appearance before

it in accordance with law within a period of 15 days from the date of receipt of writ of this order or certified copy thereof, whichever is earlier. Rule stands disposed of accordingly with no order as to costs.

zgs/-